



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 16, 1998

Mr. Michael J. Bostic
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
2014 Main Street
Dallas, Texas 75201

OR98-2700

Dear Mr. Bostic:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119617.

The Dallas Police Department received a request for copies of 911 call sheets regarding a particular apartment complex. You contend that the originating telephone numbers and addresses on the 911 report are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. You also claim that the 911 report contains some information that is protected by the common-law right to privacy. We have considered the exception you claim and have reviewed a representative sample of the information at issue.¹

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. You claim that section 772.318 of the Health and Safety Code, one of several confidentiality provisions in chapter 772 of the Health and Safety Code, makes the originating telephone numbers and addresses confidential. As you raise this section, we assume that the emergency 911 district involved

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

here was established in accordance with chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communications districts. Sections 772.118, 772.218 and 772.318 of the Health and Safety Code make confidential the originating telephone numbers and addresses of 911 callers furnished by a service supplier. *See* Open Records Decision No. 649 (1996). Section 772.118 applies to emergency communication districts for counties with a population over two million. Section 772.218 applies to emergency communication districts for counties with a population over 860,000. Section 772.318 applies to emergency communication districts for counties with a population over 20,000. Subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 911 telephone numbers and addresses. Health & Safety Code § 772.401, *et seq.* Thus, if the emergency communication district here is subject to sections 772.118, 772.218 or 772.318, the originating telephone numbers and addresses on the 911 report are excepted from public disclosure based on section 552.101 as information deemed confidential by statute.

The common-law right to privacy, incorporated into the Open Records Act by section 552.101, protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person, and it is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We agree that the 911 report contains information that is protected by the common-law right to privacy. *See* Open Records Decision Nos. 628 (1994), 339 (1982) We have marked this information accordingly. You must withhold the marked information from disclosure under section 552.101 in conjunction with the common-law right to privacy.

Please note that we have issued the City of Dallas a previous determination regarding the confidentiality of originating telephone numbers and addresses on 911 call reports. Open Records Letter No. 98-2551 (1998). We have enclosed a copy of the previous determination for your review. We are resolving this matter with an informal letter ruling rather than with a published open records decision. Insofar as this ruling deals with the common-law right to privacy, it is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Karen Hattaway", written in a cursive style.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 119617

Enclosures: Marked documents, Open Records Letter No. 98-2551 (1998)

cc: Mr. Alfred Tennison
3566 Tioga Street
Dallas, Texas 75241
(w/o enclosures)